



[FR-6289-N-03]

## **Notice of Intent To Establish a Tribal Intergovernmental Advisory Committee; Request for Comments on Committee Structure**

**AGENCY:** Office of Assistant Secretary for Public and Indian Housing, U.S. Department of Housing and Urban Development (HUD).

**ACTION:** Notice.

**SUMMARY:** This notice announces HUD's intention to form the Department's first standing Tribal advisory committee. The committee will be called the 'Tribal Intergovernmental Advisory Committee' (TIAC). This notice also solicits comments and recommendations regarding the establishment and structure of the TIAC. The TIAC will be made up of a diverse group of duly elected Tribal leaders representing small, medium, and large federally recognized Tribes. The TIAC is intended to further communications between HUD and federally recognized Tribes on HUD programs, make recommendations to HUD regarding current program regulations, provide advice in the development of HUD's American Indian and Alaska Native (AIAN) housing priorities, and encourage peer learning and capacity building among Tribes and non-Tribal entities. Consistent with HUD's Tribal Government-to-Government Consultation Policy, this notice solicits input on the proposed structure of the TIAC.

**DATES:** Comments on the proposed structure of the TIAC are due on or before: **[Insert date 60 days from date of publication in the FEDERAL REGISTER]**.

**ADDRESSES:** Interested persons are invited to submit comments on the structure of the TIAC. Comments may be submitted to HUD electronically. All submissions must refer to the above docket number and title.

**Electronic Submission of Comments.** Interested persons may submit comments electronically through the Federal eRulemaking Portal at [www.regulations.gov](https://www.regulations.gov). Electronic submission allows the maximum time to prepare and submit comments, ensures timely receipt by HUD, and enables

HUD to make them immediately available to the public. Comments submitted electronically through the [www.regulations.gov](http://www.regulations.gov) website can be viewed by interested members of the public. Individuals should follow the instructions provided on that website to submit comments.

**Note:** To receive consideration, comments must be submitted electronically through [www.regulations.gov](http://www.regulations.gov) and refer to the above docket number and title. Comments should not be submitted by mail.

*No Facsimile Comments.* Facsimile (FAX) comments will not be accepted.

**Public Inspection of Comments.** All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8:00 a.m. and 5:00 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the submissions must be scheduled by calling the Regulations Division at (202) 708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339. Copies of all submissions are available for inspection and downloading at [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Heidi J. Frechette, Deputy Assistant Secretary for Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4108, Washington, DC 20410-5000, telephone (202) 402-7598 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

Consistent with Executive Order 13175,<sup>1</sup> HUD's Tribal Government-to-Government Consultation Policy recognizes the right of Indian tribes to self-governance and supports Tribal

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<sup>1</sup> Executive Order 13175, 65 FR 67249 (November 9, 2000).

sovereignty and self-determination.<sup>2</sup> It provides that HUD will engage in regular and meaningful consultation and collaboration with Tribal officials in the development of Federal policies that have Tribal implications. Executive Order 13175 also requires Federal agencies to advance Tribal self-governance and ensure that the rights of sovereign Tribal governments are fully respected by conducting open and candid consultations.

In 2016, in furtherance of Executive Order 13175, HUD proposed the establishment of a TIAC. On June 23, 2016, HUD published a *Federal Register* Notice seeking comments on the structure of the proposed TIAC.<sup>3</sup> On December 21, 2016, HUD published a second *Federal Register* Notice announcing the establishment of the TIAC and requesting nominations from duly elected or appointed Tribal leaders to serve on the TIAC.<sup>4</sup> HUD received nominations from various Tribes but did not receive an adequate number of nominations to fully constitute the TIAC. Accordingly, HUD did not complete the establishment of the TIAC at that time.

On January 26, 2021, President Biden issued a Presidential Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships.<sup>5</sup> The memorandum directed all Federal agencies to take actions to strength their Tribal consultation policies and practices and to further the purposes of Executive Order 13175.

To further enhance consultation and collaboration with Tribal governments, HUD is once again proposing to establish the TIAC. Several Federal agencies have established similar Tribal advisory committees. These advisory committees convene periodically during the year to exchange information with agency staff, notify Tribal leaders of activities or policies that could affect Tribes, and provide guidance on consultation. HUD has determined that a similar advisory committee would provide critical support to the Department as it formulates. The formation of the TIAC would also assist the Department in carrying out its responsibilities under the

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<sup>2</sup> Tribal Government-to-Government Consultation Policy, 81 FR 40893 (June 23, 2016).

<sup>3</sup> Notice of Proposal To Establish a Tribal Intergovernmental Advisory Committee; Request for Comments on Committee Structure, 81 FR 40899 (June 23, 2016).

<sup>4</sup> Establishment of Tribal Intergovernmental Advisory Committee; Request for Nominations for Tribal Intergovernmental Membership, 81 FR 93700 (December 21, 2016).

<sup>5</sup> The memorandum was published in the *Federal Register* on January 29, 2021 (86 FR 7491).

# Presidential Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships.

Prior to HUD's establishment of the TIAC, this notice solicits input into the structure of the committee.

## **II. Proposed Structure of the TIAC**

To assist commenters with their review and to help them provide feedback, HUD is providing the following as an example of how the TIAC may be structured. HUD is requesting comments on the following proposed structure of the TIAC and is open to any additional recommendation on how the TIAC may be constituted and how it should operate. Comments on the structure of the TIAC are due on or before: **[Insert date 60 days from date of publication in the FEDERAL REGISTER]**.

### **A. Purpose and Role of the TIAC.**

The purposes of the TIAC are:

- (1) To further facilitate intergovernmental communication between HUD and Tribal leaders of federally recognized Tribes on all HUD programs;
- (2) To make recommendations to HUD regarding current program regulations that may require revision, as well as suggest rulemaking methods to develop such changes. The TIAC will not, however, negotiate any changes to regulations that are subject to negotiated rulemaking under Section 106 of the Native American Housing Assistance and Self-Determination Act (NAHASDA) and will not serve in place of any future negotiated rulemaking committee established by HUD; and
- (3) To advise in the development of HUD's AIAN housing priorities.

The role of the TIAC is to provide recommendations and input to HUD, and to provide a vehicle for regular, meaningful consultation and collaboration with Tribal officials. It will not replace other means of Tribal consultations, but, rather, will supplement them. HUD will

maintain the responsibility to exercise program management, including the drafting of HUD notices, guidance documents, and regulations.

#### **B. Charter and Protocols.**

The TIAC will develop its own ruling charter and protocols. HUD will provide staff for the TIAC to act as a liaison between TIAC and HUD officials, manage meeting logistics, and provide general support for TIAC activities.

#### **C. Meetings and Participation.**

Subject to availability of Federal funding, the TIAC will meet periodically to discuss agency policies and activities with HUD, set shared priorities, and facilitate further consultation with Tribal leaders. Initially, meetings will likely be conducted virtually, but may be in person in the future, and will be conducted consistent with any COVID-19 safety protocols. HUD will pay for these meetings, including the member's cost to travel to these meetings. The TIAC may meet on a more frequent basis virtually, via conference calls, videoconferences, or through other forms of communication. Additional in-person meetings may be scheduled at HUD's discretion in the future. Participation at TIAC meetings will be limited to TIAC members or their alternates. Alternates must be designated in writing by the member's Tribal government to act on their behalf. TIAC members may bring one technical advisor to the meeting at their expense. The technical advisor can advise the member but cannot speak in the member's place. Meeting minutes will be available on the HUD website, and, depending on the circumstances, public and Tribal comments may be requested.

#### **D. TIAC Membership.**

The TIAC will be comprised of HUD representatives and Tribal delegates from across the country, representing small, medium, and large tribes. The TIAC will be composed of HUD officials (including the Secretary or his or her designee, as well as the Assistant Secretaries for Office of Public and Indian Housing (PIH), Office of Policy, Development, and Research (PD&R), Office of Fair Housing and Equal Opportunity (FHEO), Office of Field Policy

Management (FPM), Office of Housing (FHA), Government National Mortgage Association (Ginnie Mae), and Office of Community Planning and Development (CPD) or their designees) and up to fifteen Tribal delegates. Up to two Tribal delegates will represent each of the six HUD ONAP regions. Up to three remaining Tribal delegates will serve at-large. Only duly elected or appointed Tribal leaders may serve as TIAC delegates or alternates of the TIAC. The Secretary of HUD will appoint the HUD representatives of the TIAC. TIAC Tribal delegates will serve a term of two years. To ensure consistency between Tribal terms, delegates will have a staggered term of appointment. In order to establish a staggered term of appointment, half of the Tribal delegates appointed in the inaugural year of the TIAC will serve two years and the other half will serve three years. Tribal delegates must designate their preference to serve two or three years; however, HUD will make the final determination on which Tribal delegates will serve two or three years. Once these Tribal delegates complete these initial terms, future Tribal delegates will serve terms that last two years. Should a delegate's tenure as a Tribal leader come to an end during their appointment to the TIAC, the delegate's Tribe will nominate a replacement, if not the already nominated alternate.

#### **E. Function.**

The establishment of the TIAC is intended to enhance government-to-government relationships, communications, and mutual cooperation between HUD and Tribes. It is not intended to, and will not, create any right to administrative or judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other persons.

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Heidi J. Frechette, Deputy Assistant Secretary for Native American Programs, Office of Public and Indian Housing.

